

**MINUTES OF THE
CHARTER REVIEW COMMISSION
Community Room
Santa Fe Public Library
145 Washington Avenue
Tuesday, April 23, 2013**

CALL TO ORDER.

A meeting of the Charter Review Commission was called to order by the Honorable Patricio Serna, Chair, at approximately 5:00 p.m., on Tuesday, April 23, 2013, in the Community Room at the Santa Fe Public Library, 145 Washington Avenue, Santa Fe, New Mexico.

1. ROLL CALL

Roll call indicated the presence of a quorum as follows:

The Honorable Patricio Serna, Chair
Nancy R. Long, Vice-Chair
Roman Abeyta
Steven G. Farber
Brian Patrick Gutierrez
John B. Hiatt
Houston Johansen
Carol Romero-Wirth
Daniel Werwath

OTHERS ATTENDING

Jamison Barkley, Assistant City Attorney
Irene Romero, City Attorney's Office
Melessia Helberg, Stenographer

There was a quorum of the membership in attendance.

2. APPROVAL OF AGENDA

MOTION: Commissioner Hiatt moved, seconded by Commissioner Werwath, to approve the agenda as presented.

VOTE: The motion was approved unanimously on a voice vote.

3. APPROVAL OF APRIL 9, 2013 MINUTES

Commissioner Farber provided a list of ministerial corrections to the stenographer, the corrections were entered, and the corrected minutes were provided to the members by Ms. Romero via email.

MOTION: Commissioner Hiatt moved, seconded by Commissioner Werwath, to approve the minutes of the meeting of April 9, 2013, with the ministerial corrections.

VOTE: The motion was approved unanimously on a voice vote.

4. PUBLIC COMMENT

A copy of a proposed amendment to the Charter, provided by the Neighborhood Network, entered for the record by Rick Martinez, is incorporated herewith to these minutes as Exhibit "1."

A copy of a proposed amendment to the Charter, a policy statement, provided by United Way of Santa Fe, entered for the record by Stacy Quinn, is incorporated herewith to these minutes as Exhibit "2."

A copy of an email dated April 22, 2013, to Irene K. Romero from John Otter, regarding a proposed punctuation amendment to the Charter, entered for the record by staff, is incorporated herewith to these minutes as Exhibit "3."

Rick Martinez, President, Neighborhood Network, said two weeks ago he appeared and asked to have something on neighborhoods included in the City Charter. He said Cheri Johansen, Vice-President, is handing out some proposed language to the Commissioners [Exhibit "1"]. He said the main concern of the Network is to ensure that they get some language in the Charter. He said he hopes the proposed language is acceptable, and will work with them if they could like to change the language.

Chair Serna noted there are several neighborhood associations, and said Mr. Martinez calls this the Neighborhood Network, and asked if all the associations got together and this language represents all the neighborhood associations.

Mr. Martinez said the associations didn't get together on this language, reiterating that the Commission asked them for language at the last meeting. He said they try to get the neighborhoods together, and they try to represent the entire City. He said the Neighborhood Network is very important to Santa Fe.

Chair Serna asked Mr. Martinez if he is the President of the Neighborhood Network, and Mr. Martinez said yes.

Commissioner Hiatt asked how many neighborhood associations are part of the Network.

Mr. Martinez said there were 28 members at the last count, but they try to work with them all. He said it isn't only neighborhood associations, they also have homeowners associations as members.

Mr. Martinez introduced Cheri Johansen, Vice-President. He said other members of the Neighborhood Network are in attendance, which include, Marilyn Bane, Former Councilor Karen Heldmeyer, and noting that Fred Rowe and Jim Harrington are members as well.

Marilyn Bane, a member and past President of the Neighborhood Network, President, Historic Neighborhood Association, and Past President of the Old Santa Fe Association, said she is here as part of the Neighborhood Network, but she is here on a different topic, although she supports Mr. Martinez. She said they want to support the policy statement on environmental protection submitted by the League of Women Voters. She said the Neighborhood Network has voted to support each and every one of the Charter amendments which were presented to the Commission by the League of Women Voters. She said, "We would like to also specifically call out the Environmental Protection Policy Statement, 2.03, and heartily endorse water as a primary issue, and it will continue to be, and we feel it is of such importance that it should be specifically mentioned, along with any other environmental statement."

Commissioner Hiatt said he may have misunderstood, but he thought Ms. Bane was telling us that the Neighborhood Network supports all of the Charter Amendments before the Commission.

Ms. Bane said, "No. Those that were recommended by the League of Women Voters."

Stacy Quinn, Board Member of United Way, provided a proposed Policy Statement with attachments, to the Commissioners [Exhibit "2"]. Ms. Quinn read the proposed amendment into the record. Please see Exhibit "2" for the text of the proposed amendment.

Ms. Quinn said in doing their work, they have discovered that the graduation rate is directly correlated to our 4th grade reading rate. She said they have been working with the County and Public School Officials, and one piece which is missing is the City. She said they felt that the City Charter should reflect the values that Santa Fe holds for our future, and that our children are our most important aspect, and therefore should be highlighted.

Chair Serna thanked her for her presentation, commenting if organizations such as United Way don't speak up for our children, then who will, because the children can't speak for themselves.

Ms. Quinn invited the Commissioners to the event being sponsored by United Way with Rob Gruenwald, a member of the Federal Reserve of Minnesota. He will be speaking about the financial investment in our children. *[The balance of Ms. Quinn's statement is inaudible because of noise overlay]*

John Otter said, "After a thorough reading of the State Constitution and relating all the provisions in there with regard to elections, it appears that the State Constitution would not allow the hand counting of ballots for municipal elections. That is because ballots are required to go into a machine, of a City over 1,500 people, and 'she' puts the ballots as required in a ballot box, which is required to be sealed with the locked ballots, and the ballot box is not to be opened until the canvas of the election to certify the votes, so there is no opportunity to access to the ballots to sort or hand count them before the results of the election are canvassed."

Chair Serna would like Mr. Otter to provide the section of the Constitution to which he is referencing.

Mr. Otter said he didn't bring details on that with him this evening. He said, "The bottom line is that the proposal that I made to require the hand counting doesn't appear to be allowed by the State Constitution. I think that can be taken off the agenda. Again, I thank the Commissioners for the time and attention that they paid to this, and apologize for the late discovery of the State Constitution provisions."

Mr. Otter said he found a punctuation error in the City Charter, Section 4.06 Ranked Choice Voting. He said, "The intent of the sentence is pretty clear, so the change in the punctuation is pretty clear, and the detail was provided, I believe, to Irene, and I hope the Commission can make that change without having the voters vote on moving a comma from one place to another."

Mr. Otter said, "The contingency clause of machines being available that will recognize certain errors, and all those contingencies in the Charter don't limit the counting of ranked choice voting ballots, any more than the State Constitution does, except for this phrase 'at a reasonable price,' which is not a problem because the County provides the machine. The solution to the problems are the new precinct machines that will satisfy the Constitution provision which requires the Secretary of State to approve the voting machines and a number of other steps that are too long to be dealing with at this point. I thank you for your consideration of these election changes, and I'm sorry that didn't work out."

**5. CONTINUED DISCUSSION OF TOPICS FOR REVIEW TO INCLUDE PUBLIC COMMENT
POLICY ISSUE:**

**A) CREATE AN AUDITOR/INSPECTOR GENERAL POSITION/REPORT
REGARDING CITY AUDIT COMMITTEE AND ITS FUNCTIONS AND ACTIVITY.**

A copy of Ordinance No. 2012-32, creating the Santa Fe Internal Audit Department, with attachments, entered for the record by staff, is incorporated herewith to these minutes as Exhibit "4."

A copy of the Audit Committee Member List, with attachments, are on file in, and redacted copies can be obtained from, the City Attorney's Office.

Chair Serna noted this amendment was proposed by Commissioner Farber, and he understands there are individuals here to brief the Commission on what the Audit Committee does. He said he is extremely impressed with the backgrounds of the members of the Audit Committee and we are honored to have them in attendance today.

Lisa Kerr, Internal Auditor, City of Santa Fe, asked what questions she can answer for Commissioner Farber.

Commissioner Farber said he is glad she is here and apologizes for the inconvenience when we were just provided the materials at the last meeting. He said he wasn't expecting a full report, noting the Chair of the Audit Committee, Maurice Lierz, is in attendance today. He thanked Ms. Kerr and Mr. Lierz for being present, and the Audit Committee for the report that was attached to the materials we were given at the last meeting, which was a report the Audit Committee had presented to the Governing Body. He said it was very helpful to him in understanding the issues, and "I note that it is a very recent Ordinance. It's 2012-32, which just passed in October 2012, which was two months before we started our meetings. So when I mentioned this, I wasn't exactly clear about what the City was doing. But I do have a question and having reviewed the Ordinance which created your position, if I understand correctly, you report to the City Manager, correct."

Ms. Kerr said, "Yes. That is correct."

Commissioner Farber continued, "In the Ordinance it indicates, and maybe this is just a matter of language, but in looking at the Ordinance along with the Report, and I very much appreciated your report, I was wondering whether there had been developed a yearly Internal Audit Plan yet."

Ms. Kerr said, "Yes. I will say that the Audit Committee has a sub-committee that works with the Internal Auditor and myself, that consists of two members of that Audit Committee who helped to review the Risk Assessment that I sent out to the various different departments. And using that Risk Assessment plus the results of wonderful interviews with various people around the City, we came up with an Audit Plan."

Commissioner Farber said, "And so that's a formal document now."

Ms. Kerr said, "Absolutely."

Commissioner Farber asked, "And has that Plan been approved by the Audit Committee."

Ms. Kerr said, "Yes it has."

Commissioner Farber said, "I wanted very much to express my appreciation for the fact that the Report states, 'The Audit Committee has met 10 times in its last year.' I know when I say thankless, it's not thankless, because we need to be thankful that there are people who take this so seriously. It's thankless in the sense that there is no compensation for the members of the Audit Committee, but it's hard work. And I've become sensitive to this."

Commissioner Farber continued, "And I wanted to express to the Chair why I raised this, because I have some professional dealings with the New Mexico Finance Authority, and the recent episode of a fraudulent audit that had been created by an employee. So I have become quite aware of issues that are involved with that."

Commissioner Farber continued, "I was concerned, in reviewing the report of the Audit Committee that the City's audit, for perhaps the last four years, has been late. And I'm wondering if remedial steps are in place now so that the next.... If I understand correctly, the statutory deadline was December first for the City, not just for the CAFR, but for the City's audit to be submitted."

Ms. Kerr said, "And I think you raise a really good point and it's been a concern of the Audit Committee and myself as well. And to answer that question, I would say that there have been meetings already with myself, Marty Mathieson from Atkinson & Co., and Teresita Garcia from the Finance Department, to try to come up with a benchmark to help get the audit report done sooner, or at to at least meet our deadline, that is our goal. And I believe, using the milestones that we've laid out, they will be able to meet that goal."

Commissioner Farber said, "Well. And I very much appreciate that, and I don't know whether this is addressed to the Chair of the Audit Committee or to you, but are there minutes kept of the Audit Committee meetings."

Ms. Kerr said, "Yes, there are."

Commissioner Farber said, "Well, that's a very important thing, because one of the issues that happened with the Finance Authority is that the Audit Committee met only sporadically, even though they were cabinet secretaries, and they didn't keep minutes of those minutes when various things happened. Can you think of any reason why the Audit Committee should not be a matter of ordinance as opposed to a Resolution of the City Council."

Ms. Kerr said, "And I would like to make one point of clarification before I answer that question. The Resolution for the Audit Committee was actually created in 2010. You know, the Audit Committee created the Internal Audit Charter which was 2012. So, again, I'm sorry, could you repeat your question."

Commissioner Farber said, "And I appreciate the fact, the way I see it, and I'll go quickly, is that you answer... you're an independent person within City government, you answer to the City Manager, but in some ways you also report to the Audit Committee. And that seems to me to be the check and balance, because the members of the Audit Committee are independent citizens who are not employees. In fact, several of the members, two are CPA's if I recall correctly, one is a lawyer, two are business people, so there is a protection in the checks and balances. And there is a difference between a Resolution which is just an expression of the will of the Governing Body versus an ordinance which is actually a law. So, I'm wondering whether there shouldn't be an ordinance, or the City shouldn't be required, and if I put you on the spot, you can just say that's out of my province."

Ms. Kerr said, "That's out of my province."

Commissioner Farber continued, "But why you would not, as a community, want to have, by ordinance, an audit committee, so that it will be there, maybe not the same members all the time, but it's not something that could just be changed by a simple vote of the Governing Body, actually it's not even a public hearing. Does that put you on the spot, but it's a rhetorical question."

Ms. Kerr said, "That's out of my province."

Commissioner Farber continued, "Right. So, Chair do you have a thought about that."

Maurice Lierz, Chair, Audit Committee, said, "First of all if you look at the City of Santa Fe, I think we're into a transitional mode. If I understood also what was behind forming the City's Audit Committee, we are advisory by nature of the Resolution. But I would express it in these terms, we have to learn to walk before we run, so evolution has yet to occur I think in our process. Also, what the duties of the Audit Committee..... we have them, but they may be changed in the future. I think this is a dynamic document, and if I understood it correctly, part of this started because of a suggestion by the State Auditor, one of our statutory State officers, recommending to the City that an Audit Committee be formed. So that was also behind this activity. So, I don't know if there is any objection to thinking of us in transition. We've been working for about two years. We're learning our jobs as we go. But in the State of New Mexico, we were aware of the Albuquerque audit situation. We were particularly impressed with the City of Las Cruces and their activity. And also, in the last year, we spent a great deal of time on the Internal Audit position and planning and stuff of that nature. I hope that's given you background."

Commissioner Farber said, "I understand that it would be difficult to set out duties, goals and functions of an Audit Committee. But if there were a simple expression that the City of Santa Fe shall have an Audit Committee, period, it would seem to me that that might be an appropriate thing, because that then would become a part of the fabric of government. And we leave to the Council and to the Committee how you go about your functions, but at least there will be a Committee, particularly if there was a finding, I guess, that was made by the State Auditor, and if that's one of his suggestions."

Mr. Lierz said, "I think it was informal. And it was debated by the Council. We did discuss it, and if I'm correct, our City Charter says that all employees presently are hired and fired by the City Manager. But I think there was dialogue in the City structure that, in our current situation, I think the City Manager would seek the advice of the Council, of the Finance Committee and the Audit Committee, before terminating our Internal Auditor. So these are informal things at this point."

Commissioner Farber said, "Chair, thank you. I don't have any more questions. I appreciate your attendance."

Chair Serna thanked Ms. Kerr and Mr. Lierz, noting it is a very impressive Committee.

Commissioner Abeyta said, "Mr. Chairman, I have a question. So is the intent then, Commissioner Farber, that we have language in the Charter that it is a requirement by Ordinance. Is that all we're being asked to consider here."

Commissioner Farber said yes.

Chair Serna said the City Charter is the Constitution for the City, so that would be your authority, plus an ordinance is a law of the City, but would you prefer it to be constitutional or an ordinance.

Ms. Kerr said, "I do believe the Ordinance that established the Internal Audit Department, I mean it is an Ordinance. It is 2012-32, I believe. It's the Audit Committee that was established by Resolution, and I think that is the question on the table and whether that becomes an ordinance or a resolution, I think the intent is the same, but again that's out of my province. But as long as the intent is there to have that committee on a going forward basis, I think that that would be fine with myself and the Audit Committee."

Chair Serna said, "I'm going to ask counsel to draft [an opinion] for the next meeting or so, and let us know whether it's by ordinance or resolution."

Commissioner Farber said, "Well it is by Resolution."

Chair Serna said, "Well, that's what you said, but she said it's by..."

[Too many people talking here at the same time to transcribe]

Ms. Kerr said, "There's two different documents. One is the Audit Committee Resolution, which was established in 2010, that established the Audit Committee. And then the Audit Committee created the City Ordinance that established the Internal Audit Department, and I'm the Internal Audit Department, me, myself and I."

Chair Serna said, "Okay, I understand now. Any further questions from the Commission."

Commissioner Abeyta said, "Again, Mr. Chairman, so I understand, so what we're asking is that this be put in the Charter itself, that there be an Audit Committee that is established by ordinance."

Commissioner Farber said, "If I may. That it would be stated in the Charter, which is our governing document, that there shall be an Audit Committee established, and the Governing Body has X number of months to do that. That's what we did when we did the initial Charter for procurement. You have to have procurement laws, which shall be done, leaving to the Governing Body the details."

Chair Serna said, "As the proponent of this, I'm going to have to put him in charge [Commissioner Farber] to make sure what you all wanted is conveyed. In other words, for you to be the lead in that effort."

Commissioner Farber said okay.

APRIL 23, 2013 – GOVERNANCE ISSUES – SANTA FE PUBLIC LIBRARY
A) CREATE A FULL TIME MAYOR

A matrix of all of the issues raised before the Charter Commission prepared by Daniel Werwath and distributed to the Commission, is incorporated herewith to these minutes as Exhibit "5."

Chair Serna asked who is the proponent of this amendment, and if we ever established that.

Commissioner Long said, "I think this is an issue she [Long] raised, but there may have been some others as well. This is a long time ago now, this was at our first meetings. I know it's on our comparison chart [Exhibit "5"] that we have. It's a topic under Full Time Mayor. The summary of that is that 'The Mayor position of the City of Santa Fe, is a half time paid position. This initiative would increase the Mayor's position to a full time job.' And certainly there are those, including the Mayor, and some that will join us later, that would know far more about this than I do. But it seems to me that our Mayor typically has and certainly our current Mayor, you could say, it is at least a full time job and more. It's not a part time position."

Commissioner Long continued, "And our City certainly has grown enough and we have every complex issue out there that I think justifies us treating this position as full time, although we could not compensate someone for all of the work that goes into this job adequately, it should be a full time salary, I believe. And I think it has the added benefit of maybe being able to attract some candidates that would not otherwise be able to run for Mayor because they have got to keep their job, so they can look at this as a part time job. But I think it does open that field of people that may be considering it and see some full time pay for the job. And those that have worked hard enough and certainly are fortunate to have a retirement or a family business, as we have seen, or have other resources, are able to fill that position more readily than those who would not have those same resources. So it seems to me, we're just catching up with reality by doing this, because our Mayor works more than full time, and nothing about that is going to change as I see it."

Chair Serna said he can't vote, but he can express his opinion and he totally agrees with Commissioner Long in this regard.

Commissioner Romero-Wirth asked, "So I'm just looking at the powers and duties of the Mayor, and does it say in here somewhere, I don't see it under the section on the Mayor, that it is a part time position. I completely agree that it's probably full time and then some, but I'm confused... we wouldn't be adding a salary into the constitution, we'd be adding a statement that it is a full time position. And then hopefully, it will be compensated as such. I'm not sure why we think it is a part time position. Obviously, from watching the Mayor, I don't think he's part time. I'm just wondering if it says that somewhere in our constitution. If anybody knows."

Commissioner Romero-Wirth continued, "And I looked on page 12 of the Charter, under 5.01, where it outlines the powers and duties. And I don't see anything here saying part time, so the salary does reflect that. And certainly the salary as I understand reflects that it's part time or less. But it also may be what... I don't know what the basis for that is, for determining the salaries. So anyway, I just point that out,

that we would need, I guess, to add a statement in here saying that it's a full time position. I guess I'm curious whether.... how other charters handle that, because we wouldn't be putting in here a salary requirement, so we're going to have to flush that out."

Ms. Barkley said, "The Charter does not include the salary information, and also, as you pointed out Commissioner Romero-Wirth, it doesn't include a statement as to whether the position is part time or full time. The salaries for Mayor and City Councilors are set in a provision of City Code. And if you flip to your chart on the second to last page [Exhibit "5"], under *Salaries Set By Independent Commission*, it says SFCC 2-1.2 incorporates a State Statute §4-44-4 NMSA 1978, that sets the salaries for county commissioners of Class A Counties, and the salaries of the Mayor and the Councilors are set to mirror those of the county commissioners in Class A Counties. We all operate on the knowledge that it's a part time position [inaudible]."

Commissioner Farber said, "I think, by tradition. Certainly when I served on the City Council, it was perceived to be a part time position. Now someone who has a lot of time can put as much time and effort into the position as they want, but there was never any document that I saw that said it was full time, 40 hours, 60 hours. I mean the reality is, when you're on the Council if you're doing your work, you're spending 20-30 hours a week anyway, a minimum of 20 hours, sometimes 40 hours, a week. It was hard for me to juggle a law practice and be on the Council. I think that this raises some fundamental issues that we need to be thinking about, because it goes to a potential restructuring, more than just sort of tweaking, and having some of the policy statements that I've initiated and some others, as we go forward with the structure of municipal government."

Commissioner Farber continued, "I guess I want to ask the City Attorney this, because if I'm understanding correctly, and I may be wrong about this, I know that we [the Commission] can do anything with regard to making decisions and recommendations to the Council. The Council can accept or not accept it, and put it to the vote of the citizenry, so long as it is not contrary to State law. But are the salaries for the Mayor and the Governing Body set by State law. I know Albuquerque is different, but they're a different class county. So we could be, perhaps, making it a full time job, but limiting the salary, because we can't do anything about the salary, to then compensate the Mayor who is undertaking this as a full time position – I think I heard this, I'm not sure."

Ms. Barkley said, "The salary of the Mayor and Councilors are not set. The salaries for County Commissioners, the Ordinance of the City, Ordinance 2-1.2, the City has decided they would track with the salaries of Class A County Commissioners, and that can be changed."

Commissioner Farber said, "When I was on the Council, we got \$14,000 a year. What are the current salaries for the Councilors and the Mayor."

Ms. Barkley said, "I believe, although I will stand for correction, I believe it might be \$23,000."

Mayor Coss said, "It is \$26,000 for Councilors and the Mayor."

Commissioner Farber said, "I guess my comment, and I just throw this open, I've not heard a

groundswell, not even a groundswell, an opinion from a lot of her stuff, but input from the community about wanting the Mayor to be a full time position, or not.”

Commissioner Romero-Wirth pointed out that we haven’t heard public comment on this.

Commissioner Farber said, “ I understand that, but it was raised by Mayor Maestas at our first meeting. He’s the one that came up with the idea. He said that in his presentation.”

Commissioner Hiatt said, “I didn’t have any authority to do so, but I invited the Mayor to come tonight, because these are issues that I thought we would group together, and it was convenient to hear from him at one time. And I certainly would like to hear from the Mayor on each of these 3 issues, and I don’t know if we need to have each of them taken separately, but I hope you will invite the Mayor to speak at the appropriate time, which I think is soon.”

Chair Serna said, “I just wanted to point out that Item C under Governance Issues, is *Mayor to act as Chief Executive Officer*. Well it’s already in the Charter, Item C says, ‘be the chief executive officer of the City,’ so that’s already in there.

Commissioner Werwath said, “I believe that is a clarification of language which, if you refer to the 3rd page of the matrix [Exhibit “5”], was to clarify the language. It says, and I believe and correct me if I’m wrong, but it defines the Mayor as the Chief Executive Officer, but does not provide a definition of that term, and that is the ambiguity that the League of Women Voters was proposing to be cleared up. I believe that the title in the agenda has been modified through a sort of [inaudible] game, if that makes sense.”

Commissioner Abeyta said, “I think that in order to make a decision, at least for me, as to whether or not this should be a full time position, is what are the duties of the Mayor going to be. Are we just saying the duties don’t change, as they are now, but that alone takes full time, so that’s what we are discussing. Or, the duties would change also. The Mayor, since it is full time, will have more of an administrative authority since it’s a full time position. So I think that it is important to clarify what are we talking about. Are we talking about that the Mayor continues to do the existing duties that take full time, because it’s now a full time position, or if there is going to be more, like I said, more of a role in the day to day operations of City government.”

Brad Parkins, Camino Pequeno, said, “Part of the problems you’re dealing with is the approach you’re dealing with, which is a judgment call. There are professional consultants who make a living gathering data on all kinds of jobs, some so obscure you’d never believe it. And then looking at those jobs, comparing salaries, what should the job pay. You pay for the consulting, they look at the situation, and they give you answers that you can back up against and you can support and challenge. Your judgment is not on the line. You read about all those big CEO salaries in the newspapers. Most of the directors don’t make those judgments without going out to a consultant and saying, ‘Mr. Consultant, look at the job that

our CEO has to do, his responsibilities, the size of the company, everything about the dynamics, compare it to the data on other people with similar duties and conflicts with the jobs, and come back and tell us what we ought to pay this guy'."

Chair Serna said, "Well that's great, but this Commission has no resources to hire consultants."

Mr. Parkins said, "You must have some money to do something."

Chair Serna said we don't.

Mr. Parkins said, "You might plead with the City Council and they'll allocate some money. It won't be a lot of money, and let me just carry this step through. I can promise you there are specialists in salary compensation for small city governments. They'll look at the size of the government, the size of the community. I don't know this, I'm not in the business, but they'll look at the population of the town, they'll look at the Mayor's job, they'll go back and look at what jobs are paying, whether they're full time, part time or this weekend, and they'll come back with an authoritative answer that will give you some roots and confidence that we can do right by this Mayor. You know somebody could come in and pluck away your Mayor because he's under paid. It's simple. Go on line. The biggest thing I can think of, but I think they're so big, is Perris, and they do compensation all over the world. It makes it simple, and it's fair."

Chair Serna thanked him for his input.

Commissioner Romero-Wirth said, "I just want to be clear though. Our role is not to determine the salary level of the Mayor, that's not what we are here to do. What we're here to do is determine whether we need to say it's a part time position or a full time position. I think we know historically that our Mayors put full time into this. So at some point we need to state that in here, because maybe they might be compensated consummate with a full time position, but we can't determine what their salary level is. That's not our role. So I just want to be clear about that."

Commissioner Romero-Wirth continued, "And I guess, when the Mayor does have an opportunity to speak, I would like to know if he is aware of how or why we can think of it as a part time position. Because if you read the powers and duties it doesn't say it's a part time position and there's a lot to be done here, so I don't know where we've gotten that idea over time. Unless, we just look at his salary now and say, 'oh my gosh, that's not consummate with a full time position,' therefore we have somehow come away saying it's a part time position."

Commissioner Long suggested that we go through the other issues, and then ask the Mayor to address all of them at one time.

Commissioner Farber said, "I just wanted to respond to Commissioner Werwath's comment in terms of the descriptive nature of some of these agenda items. This has just sort of been as we've carried it forward. And I think as we're moving, we're refining some of the more general descriptors, in the next meeting, yes, and what we did. There were certain ideas that came up as policy issues, or that came up as a governance issue, and I would just note that on our agenda for May 9th there's discussion about

salaries to be set by an independent commission. I'm assuming the salaries they're talking about are the salaries of the Governing Body, I'm thinking. I don't know about whether... and I think it was the suggestion of the League of Women Voters, I'm not absolutely sure about that. I don't remember who came forward with the commission with the set salaries by an independent commission idea."

Chair Serna said, "It was the former Mayor of Espanola."

Commissioner Farber said, "He said that as well. So, those two sort of dovetail and maybe should have been discussed together. I think that I would be interested in hearing from Commissioner Abeyta, who served in an administrative position in municipal government. Because if we have a full-time Mayor, Chief Executive Officer, and we have a full time City Manager, do we create the potential for conflict. I don't know whether we do or we don't, if there aren't very specifically defined duties for the City Manager, as such. And I think that Former City Councilor Heldmeyer agrees with the lack of description for some of the high ranking officials of the City."

B) MAYOR TO HIRE/FIRE CITY ATTORNEY, CITY CLERK AND CITY MANAGER

Chair Serna asked who hires the City Attorney, the City Clerk and City Manager at present, and is it the City Council.

Commissioner Farber said, "It's the Mayor subject... under 5.01, I was just looking at this before. 5.01(D) says, 'The City shall have a Mayor who shall appoint and remove, subject to the approval of the Governing Body, the City Manager, City Attorney, City Clerk and members of advisory commissions.' That's in the Charter."

Commissioner Long said, "In terms of firing, at least as to the City Manager, the Council has the power to fire the City Manager, as well as the Mayor, subject to the Council's approval. So the issue here that I think that was brought up early on, is that of the Manager being subject to firing, not only by the person who appoints and hires the Manager, but also the Council. And it can, depending of course on the Councilor and the time, and even the issues, but it certainly could lend to a manager having, rather than a boss, to have 9 bosses. And there certainly could be some concern and fear where as to where to take direction, because at any time, there could be at least a majority of the Council that could fire the Manager, even though the Manager is hired by the Mayor. I think we elect our Mayor, and we have to put trust in our Mayor to be able to hire the top level executive team, and that's the team that serves the City and is appointed by the Mayor. I think it creates some problems for the City Manager in terms of where to take direction and having that sort of buffer that they can be fired by the City Council. And right now, under the Charter, the City Council can fire the Manager, even though they don't hire the Manager. I think there is some concern about the Manager being able to answer to a boss."

Jody Larson, League of Women Voters, said there is another conflict which is in Section 8.03, which provides, "The City Manager shall have the power to hire and fire all City employees," which she assumes would include the City Clerk and the City Attorney. She said the League was pointing out that that conflict was there as well. She said it is internally inconsistent.

Commissioner Farber said, "I believe that the City of Santa Fe has a Personnel Ordinance, so the Personnel Ordinance protects the vast majority of City employees. There are some employees who are called exempt employees, and I think that's what that goes to. But I know there has been, and I know that there continues to be, a City Personnel Ordinance."

Ms. Larson said that isn't stated in the statement, it just says, "... all City employees," period, so it doesn't distinguish between exempt and classified.

Commissioner Farber said, "I'm not defending any of this. The way it works, and I know because I do some employment law, is that provision 8.03 that you are talking about, if the manager wants to fire somebody, if they're an exempt person, meaning they don't have the protections of the classified service, then the Manager has that right, assuming it is done for legitimate purposes and there is not a, and I know Commissioner Long also does employment cases, but usually on the other side from me, but they would have the right to do that. If the person had a position within the classified service, then they would be protected through the personnel policies, and have a right to notice of the contemplated action."

Commissioner Long said, "Their issue is with the City Clerk and the City Attorney."

Commissioner Werwath said, "It is a clarification of language, right, basically to change the language in the Charter to reflect the practice that happens at the City. It refers to the City Manager hiring or firing the Attorney or Clerk which are hired by the entire City Council."

Commissioner Long said the Mayor hires the City Attorney and the City Clerk, as well as the City Manager, subject to approval of the City Council.

Former Councilor Heldmeyer said, "Yes, it is the case that the personnel policy comes into play, but ultimately when that policy is followed, it is ultimately the responsibility of the City Manager, if someone is let go."

Commissioner Farber said he understands this.

Jim Harrington, Common Cause, and a former Charter Review Commission Chair, said, "Just briefly, by way of background, I was going to describe what occurred in the previous Commission on these issues. And we had all kinds of proposals, including making this a strong Mayor type of government like Albuquerque's and this was the biggest controversy on our Commission. And this issue was pointed out under 8.03 of the Charter by Commissioner Long. I personally was against that change, but I didn't get to vote. And we finally came down to a very minor change. One was the Mayor's ability to vote even when there wasn't a tie, in situations in which the majority of all Councilors, not just those attending, were required to approve something by State law in order for it to happen. That was the only minor change we made."

Commissioner Long said, "So you're saying it was considered by the prior Commission, and that was removing the Council's ability to fire the City Manager."

Mr. Harrington said, "Yes, getting rid of 8.03(B)."

Commissioner Long said, "But the Commission did not take vote on it."

Mr. Harrington said, "Excuse me it was 8.04. I'm sorry. I'm pretty sure we did vote on it and there was a lot of discussion. I would be surprised if we didn't vote, but I haven't looked at the minutes. But there was a lot of discussion on it. I'm pretty sure we did vote on that and that was rejected, and we ended up accepting this much more [inaudible]."

Chair Serna asked if it was rejected by the Commission or by the City Council.

Mr. Harrington said, "The Commission. We ended up not making that a recommended change, I think. I'll look for that. If I come up with something, I'll stand up again."

Commissioner Long said, "You indicated it was a tie and the reason you didn't vote."

Mr. Harrington said, "No. I indicated I didn't get to vote on it because it wasn't a tie vote."

Commissioner Long said, "Then you only vote in the case of a tie."

Chair Serna and Mr. Harrington said this is correct.

Commissioner Long said, "I was just wondering the depth of what your Commission did in the analysis. Certainly we're supposed to be taking a fresh look at all of these things and the ideas, and not to rubber stamp all of what was done 10 years ago. I mean we're analyzing this, so I appreciate you providing whatever the input was."

Mr. Harrington said, "Well, you're ranging more far and wide than we did in the issues. It was kind of apparent we had a majority of people on the Commission that didn't want to range too far and wide right from the start, so we didn't. But you're getting so much more attendance at your meetings, which is great. We did try."

Commissioner Farber said, "I would greatly appreciate it, from anyone on the Commission or in the audience, if someone could define for me the difference between the term Chief Executive Officer, which is what the Mayor is supposed to be, and under §3-14-13 NMSA, Chief Administrative Officer which is what the Manager is supposed to be."

Commissioner Romero-Wirth said, "And that's repeated in 8.03(A) of the Charter, 'The City Manager shall be the chief administrative officer of the City'."

Commissioner Farber said, "Right. So I would like to know if anybody knows the...."

Commissioner Long said, "Well I think that was the issue the League of Women voters had, is it's not defined. It says he, the Mayor, currently a he, serves in the Charter as the Chief Executive Officer, but nowhere is that defined. That's the point."

Commissioner Farber said, "Well the Mayor's duties are actually defined in 5.01."

Commissioner Long said, "And one of them is to be Chief Executive Officer which is not defined."

Commissioner Abeyta said, "I just want to add, being a former County Manager. When city managers and county managers get together, we would always would ask each other, how high do you have to know how to count. In other words, I reported to 5 bosses, so I only had to count to 3. I always had to keep 3 happy. The City Manager has to count to 5. And so I agree with Commissioner Long, it would make the job much easier if the City Manager only had to report to the Mayor, plus it would keep the Councilors more focused on policy, than even the day-to-day."

Commissioner Long said it would keep them from intervening in day to day issues.

Mr. Harrington said, "I got the answer to the question. We had a voice vote on that, and it was rejected by a voice vote. I see we also had a divided vote on a proposal to let the Mayor hire and fire all City employees, not simply the Manager, the Attorney and the Clerk, and also all members of boards and commissions, not merely those that were advisory. And that was rejected too."

Commissioner Farber said, "I may have been reading something when you said that, could you just, so I can be clear, tell me what that first vote was again, that you just mentioned."

Mr. Harrington, "We [inaudible] for 8.04 which gives the City Council the independent power to fire the City Manager."

Commissioner Farber said, "So the Commission voted to leave the original Charter provision intact."

Mr. Harrington said, "Right. And also another proposal had the Mayor hire and fire all City employees also, and we left it alone."

Former Councilor Karen Heldmeyer said, "Let me clarify the League's position on the issues that have all been touched on, but let me just put them in place, A, B and C. The League has no position on a full time Mayor. On B, Mayor to hire/fire City Attorney, City Clerk and City Manager, we suggest primarily a change to the description of the City Manager's ability to do things. Because right now it does say, 'City Manager hires and fires all City employees,' and there are 3, including [inaudible], but they do not. In terms of, Mayor acting as Chief Executive Officer, we don't have a position. But we were suggesting that term is not defined in the Charter, and it's not clear what it means, especially vis a vis the City Manager."

Former Councilor Heldmeyer continued, "There's a fourth issue about Mayors that was left off this list which the League proposed, which is based on League position, that the Mayor vote in all instances."

Commissioner Hiatt said, "That's on there."

Commissioner Werwath said, "It's not on our agenda which I believe is the issue."

Former Councilor Heldmeyer said, "It's not on the agenda. Just reminding you it's out there. Apparently it's on the spreadsheet floating around. And, in the last Charter Commission, this part was changed so that the Mayor voted in cases where it made a difference, which doesn't include ties, but also in those cases where 5 votes are needed to pass certain Ordinances, and certain kinds of Land Use cases, and there may not be enough people present at a Council meeting, so that it cannot be approved without the Mayor's vote. But the League is favor of the Mayor voting and going on the record all of the time."

C) MAYOR TO ACT AS CHIEF EXECUTIVE OFFICER

Chair Serna said this is already in the Charter, but the definition is the issue.

Commissioner Long said, "And what that may include."

Jarrett Applewhite, former School Board member, said, "I wanted to respond to the question that Commissioner Farber asked. With respect to the private sector, the distinction between a Chief Executive Officer and the corollary position in the private sector is a Chief Operating Officer. And the CEO is a policymaker and reports to the Board and reports to a constituency that is elected by shareholders. The Chief Administrative Officer, or Administrative Officer, the corollary in the School system would be that the Superintendent is the Chief Administrative Officer, and the Chair of School Board would be the Chief Executive Officer. I don't know whether that's helpful in your deliberations, but in the world I used to inhabit, the administrative person or operating person was the person who made things in accordance with the policies defined by the governing body."

Chair Serna said, "So could we say the CEO establishes policy and the Chief Operating Officer implements that policy."

Mr. Applewhite said, "That is a perfect distinction. Yes. If a corollary factor, and you know better than I do what a corollary is, then the Chief Administrative Officer of the City would have no hand in deciding what the policies of the City are and would be charged with implementing whatever the CEO and whatever board or constituency he has the authority to represent, they would set the policy and the COO or the CAO would do the work."

Commissioner Romero-Wirth said, "In our current City structure, do we have a Chief Finance Officer, or do we call that person a Budget Director."

Ms. Barkley said it is a Finance Director.

Commissioner Romero-Wirth said the other confusion is that a Chief Administrative Officer might be confused as the financial person too, right."

Chair Serna said, "I am going to follow up with a question on the Chief Operating Officer having to report to 5 as opposed to 1, wouldn't that be a more efficient process."

Mr. Applewhite said, "I don't think there's complete uniformity in the private sector, but generally the interaction between the board, the policy making group, and the CEO is conducted independently of the COO. The COO is kind of the *jeffe or jeffa* who sits underneath the policy making body and is responsible for the implementation of the policy. In my experience, it's common that all the roads lead to the Chief Operating Officer, finance, personnel, legal, all of that."

Councilor Farber said, "We haven't really discussed that. If the Mayor is a policymaker and there is a clear line about that, I understand that. But when I was on the Council, we were always told that the role of the Governing Body is not to micromanage, so some Councilors paid attention to that, some didn't. I always understood it. But it seems to me though, that the role then of the Mayor is not to micromanage either. It's a broader policymaking issue, but the danger that I see in the structure, as we discussed it, if you have a Mayor in the future who steps beyond that policymaking function, and together with the Manager sort of does everything, and then leaves the Governing Body pretty much powerless. And they've been elected by a constituency or constituencies throughout the community to represent a particular view whatever that might be. We have the potential of creating a situation where you have two people who could, potentially, create an unhealthy situation in this structure that we're at least talking about."

Commissioner Werwath said, "If I could add to that, I would say the other side of that coin to be, what I'm going to offer as the devil's advocate is, the Mayor is elected by the people. And we're talking about a potential evil versus what I think in many cases is an actual evil that exists right now, in the situation where you have, I don't even thinking micromanaging, but managing in general. When you talk about the City Council, they are not a management body in any form, let alone a micro-management body. And I've seen this as the function of City government which hinders efficiency, hinders innovation, hinders the ability to carry out basic tasks, because people are afraid to stick out their necks. And if they do something that makes them stick out their necks, it makes them a target. I've seen innumerable amounts of staff time get gobbled up by City Councilor's pet ideas and pet projects. This is the real thing."

Councilor Farber said, "Well they shouldn't."

Commissioner Werwath asked, "How do you make it so they don't, because you wouldn't tell them that's not their job. But how do you make it not their job, I think is what the issue is here. And personally, I think that's a very important consideration in terms of a professionally run City, which I think we should have. But I'd also like to say, I think at this point, after the Mayor has sat here very patiently for an hour and a half, I would love to hear his points of view on several of these issues."

Mayor Serna said he also would like to hear from the Mayor.

Commentary by Mayor Coss

Mayor Coss said, "Where to begin. The first thing Mr. Chairman, thanks for inviting me. I have just a few thoughts and observations, because I think what you're really talking about is a strong mayor/weak mayor, and which everyone in government kind of understands at some level, but the public doesn't understand. They think that I am, the Mayor is a strong mayor position. I can remember sitting with Governor Richardson once and he said, well I'm giving you a hard time because you vetoed a few of their bills. He was totally amazed when I told him I can't veto bills. Some Mayors have it. But then you talk about strong mayor/weak mayor, and how far do you want to go on the scale. The public doesn't know there's a difference and that's why I don't hear it discussed much. And whatever you do, I think the strongest part of being Mayor is that [inaudible], regardless of what the Ordinance says."

Mayor Coss continued, "But I think some of the things to think about that are do you want to keep the Mayor as a voting member of the City Council, or have him all the way off the City Council so they're not doing legislation and executive at the same time. The business community, every time I ever talk to the Chamber, they want to go back to City Councilors at large, which I think is unconstitutional and certainly gets away from one person one vote. But if you want that unifying view, then that's the Mayor that is voted on by everybody and would have a different responsibility than just the parks in your District, and the crime in your District, and they look at the whole City."

Mayor Coss continued, "The one thing I want to say about full time, is it's always full time as Commissioner Farber said. I don't know any City Councilor that does less than 20-30 hours in any week. You've got to, or you may as well not show up. And I do not feel that I have been treated unfairly by the City, by the community. I knew what the salary was, and that's not why I wanted the job. And if you are looking for the big salaries, you're probably in the wrong town anyway. But it is full time, and I think unless you address the salary piece and maybe this isn't the place, you're going to get a lot of retired State workers, because there's nobody else. They look at how much time it takes really, if you want to be effective, and they can't afford the financial sacrifice."

Mayor Coss continued, "I think you've been talking about some of these issues, about strong mayor/weak mayor and what's a Chief Executive. I even had to defended allowing the Santa Fe Art Institute to put chalk stencils on the sidewalk once for an event. 'Who gave you the authority to do that.' Well, I'm the Chief Executive Officer. It worked for a little while. When you look back to when I came on the seat in 1995, we've had 10 City Managers since 1995. Three Mayors, but 10 City Managers, and I think that ability where the Mayor appoints, but the Council can fire, is a difficult thing for any manager. We've been through 10 Managers. Maybe myself, maybe Mayor Delgado, maybe Mayor Jaramillo, appointed the City Managers, but we've been through 10. And the people don't... they just say what's the Mayor doing, they don't say what's the City Manager doing."

Mayor Coss continued, "And then inside City Hall, everybody says what's the City Manager doing. That's the response. It's who hires and fires them. But then the Council can fire them. And we've been through 10. And one that I was saying about now, that I think is a little perverse, as Commissioner Abeyta

was saying, managers start counting their votes. And we've had managers who say, can I just stay on the right side of the Mayor and count to 5 and keep my job. Well, we've had at least two cases, one was Ron Curry, a good friend of mine and the other was Asenath Keppler, who starting counting their votes, connecting with 5 Councilors and 'just ignore this Mayor.' And then you have a Mayor elected by all of the people that is being worked against by their own City Manager, and I've seen it happen twice in the last less than in 10 years."

Mayor Coss said, "You know I think that's the issue. Do you want to move to a strong mayor or keep a weak mayor, you know ceremonial. Ceremonial is fine, it's very very important. I think sometimes the mayors don't understand how important the ceremonial role is to the community. But the big power is what it's going to be in the 'bully pulpit.' A lot of the powers are not insignificant, and the ceremonial role is not insignificant. If it doesn't pay more, you are mostly going to get retired State workers running for Mayor or retired something running for Mayor."

Mayor Coss continued, "And the other thing, and I'll just pass this.... that commercial where the guy sits down with the kids and says, do you want fast or slow. And they all say fast. If you want a strong Mayor or a weak Mayor, I think that's kind of what you've got to think about."

Mayor Coss continued, "And the last piece is, in the Mayor's race in 2014, this will not apply. Whatever we pass that affects the role of Mayor will be on the ballot in 2014, but it won't apply until you elect a Mayor in 2018. It gives the community time to think about it and adjust. I would say the biggest problem right now, is having 3 times as many City Managers as we've had Mayors in the last two decades. And I'll stand for questions."

Chair Serna said, "Would you say Mayor that the City Manager really has 9 bosses, Councilors, and then the Mayor and some are pulling in different directions. That is the reason we've had 10 [managers] since 1995."

Mayor Coss said, "I think it's the main reason. We started off, Commissioner Farber was there, fire the Police Chief, or we'll fire you. That was the rallying cry in 1995. And I just went through that, but they didn't quite have the votes."

Commissioner Long said, "It could have gone the other way, too."

Mayor Coss said, "It could have gone the other way too. I think it's hard for Councilors to stay out of the politics of personnel management, small [inaudible] politics. We may know, if they get 5 votes. It's a very negative power. They could fire him, and the Mayor has to appoint the next one, him or her. Just sitting here thinking, we've also seen two that were shopping votes against the Mayor that appointed them. I don't think that's what the people vote for."

Commissioner Hiatt said, "Thank you Mayor for coming, and I appreciate your input, and I'd like to pin you down. I don't think we're going to have the authority to affect the salary. So if we're trying to enhance the position, and there's no terminology in the Charter already about full time/part time, do you have a suggestion of how to make that more effective. Is it just in the hirings and the firings, or is it all of

these things. For example, do you feel strongly about having an opportunity to vote on every issue.”

Mayor Coss said, “I know the League probably wants the Mayor to vote on every issue. I think you could push the new law into Albuquerque, where the Mayor is not even on the City Council. And you have a very clear separation of legislation, policymaking and executive implementation of policy.”

Mayor Coss continued, “Since they gave the Mayor the vote, if you need to vote, because you need that fifth or the sixth vote, I think it has been very useful to the Council. I think what usually ends up happening though, when you have to make an unpopular vote or a swing vote, you are unpopular, but that’s okay. You run for office. So I think that was a good change and I’ve had to use it. I was required to use it, a couple of meetings ago, usually on Historic Design Review Board cases, where somebody is gone.”

Commissioner Farber said, “Mayor, could you very briefly if you can for us, just define or explain how.... if the Santa Fe Mayor were full time/strong, that we’re talking about, with a full time Manager, how that would differ from the governmental structure in Albuquerque, where I understand you have the Council, but you also have a full time Mayor and a full time Manager, essentially, whatever that person is called. Do you understand my question.”

Mayor Coss said, “Yes. You either have a Council/Manager or you have a strong mayor. I think if you’re going all the way strong Mayor, you wouldn’t have the City Manager. You would have the Mayor’s Chief of Staff, but you wouldn’t have a City Manager *per se*.”

Commissioner Farber said, “So you have Mayor Berry in Albuquerque, and he’s, I guess the CEO as opposed to the COO, or not.”

Mayor Coss said, “Right.”

Commissioner Farber said, “And he has somebody under him, in this instance a COO, so that’s the way that structure of government works to your understanding.”

Mayor Coss said, “Yes. I think so. In Albuquerque, Mayor Berry hires the Police Chief, Mayor Berry is responsible for hiring the Finance Director, and the most top level positions that are his cabinet. *[Inaudible because of noise overlay that sounded like someone hammering?]*....they’re not the Mayor’s Cabinet, they’re the City Manager’s cabinet.”

Commissioner Farber said, “And I haven’t reviewed before this meeting, the Albuquerque Charter. But does the Albuquerque Council have the right to remove.... [someone indicated that they do not have that right]... okay.”

Mayor Coss said, “And I just think we’re in a stage where maybe the time’s not there yet. I think a weak Mayor that’s on the City Council is more for a smaller community or not as large as Albuquerque. Our challenges are very very serious. We see massive dysfunction at the federal and state level, and the cities have kind of got to do it themselves right now, but we won’t be doing it ourselves, no matter what you

decide until 2018. I would just put the.... I like the idea of redistricting by an appointed committee. You might want to put something in the Charter that says...."

Commissioner Farber, "...give me an independent committee."

Mayor Coss said, "Independent committee. Yes. Because every time I've seen it... I'm not going to say it. But there's got to be some way to look at those salaries."

Commissioner Hiatt says, "One more time. I mean to pin you down as well."

Mayor Coss said, "You know I'm hard to pin down, Jack. You've been trying for years."

Commissioner Hiatt said, "With regard to the hiring and the firing of the City Attorney, the Clerk and the Manager, if the Commission were to recommend to the Council a stronger Mayor form, would that include, in your mind, the hiring of those positions all together."

Mayor Coss said, "In my mind I can see hiring them with the approval of the Governing Body or the City Council, but then, whether they stay or go is up to the Mayor. Because that's the person that stood for election. That's the person that has to stand for re-election City-wide."

Commissioner Hiatt thanked Mayor Coss for his response.

Chair Serna said, "Just one question. You talked about Albuquerque's system, and of course, they've got 900,000 people, but you're not suggesting that we copy Albuquerque."

Mayor Coss said, "No. I'm making observations. I think you need to move toward a stronger Mayor, but I'm not sure that it's adopt the Albuquerque system. Every system has it's drawbacks."

Commissioner Gutierrez said, "Being in government all this time, and listening to both Commissioner Abeyta and Commissioner Farber, 'three fingers and the devil's advocate,' has anything ever crossed your mind as a compromise. Let's say that Santa Fe does get a Mayor that they say is full time, and a decent salary and it brings people out, and then you wind up getting two bums. Is there anything about the firing of the City Manager.... has there ever been any other compromises in your mind, besides the way it is done now, and besides the Mayor having the authority by himself to do that.

Mayor Coss said, "Frankly, no. To address that 10 managers for 3 mayors issue, I think you're going to have to make it clear who is doing the hiring and firing of those top positions. Not to say there might not be a compromise on these forms [of government] here, or something that pushes the needle a little further to the strong mayor side."

Commission Gutierrez, "I think some compromise could be... in the middle is what I'm thinking. I've just not thought about what that might be."

Commissioner Farber said, "Mayor, what would be your thought, if there is a full time Mayor, and as the... the gentleman's left... that there are these firms that analyze the job, the salary requirements. We've been trying to do all of this with no resources, essentially except what we pull together and the people who are here. What are your thoughts about how, if we were, as a Commission, to recommend to the Governing Body that there be the full time Mayor, that there be an appropriate salary and how that is set to attract qualified people and not just, and this not to disparage retired State employees, as Mayor Delgado, I understand. And Sam was... Mayor Pick, had his independent business. But, and I do not mean to disparage Magistrate Judges, but I think we want to avoid, and this is going to sound like an oxymoron, a popularity contest, when in fact an election actually is a popularity contest. But it's a popularity contest just to get a job as opposed to having a civic calling. In my mind, there's a real difference. The Mayor should be running as a civic calling as opposed to just a good job with a salary. How do we, from your viewpoint, sort that out, or what suggestions do you have."

Mayor Coss said, "Well I think if you started from saying we want the Mayor to be a full time Chief Executive Officer, and the City should have a process for setting salaries, whether it's an independent group that looks at it. You're always trying to compare business to government, but they're not quite the same. There is a different set of qualifications for Mayor that the people decide, and that's hard to quantify and put in a salary. But I think this whole discussion of whether it is part time or half time, got to be, well they're paid exactly the same as Councilors. Everybody knows Councilors are part time, if you count 30 hours as part time. I think you should clarify that it is expected to be... that's your job. You're not doing any other jobs. You're not working for the State or working for Intel or anybody else. You are working for the citizens, it's full time. And then ask a citizens' group that would include something like this Committee to say let's look at those salaries and come up with something. It's not going to be, in my mind, it's not going to be over \$100,000."

Commissioner Long said, "It's not going to equate to a private company, because it can't."

Mayor Coss said, "I agree. It can't. If you starting setting those experience and skill levels, then we're going to exclude citizens who, under the New Mexico Constitution, have a right to run for the office if those people decide to do so."

Chair Serna said, "Now Mayor, would your preference be a strong mayor, full-time mayor, Chief Executive Office, with a Chief of Staff as opposed to a City Manager."

Mayor Coss said, "Having a City Manager. That would be my preference. That will not apply to me. I guarantee I may run in 2014, but I'm not running in 2018."

Chair Serna said, "We send it to the Council and they vet it and they decide what goes to the public, and they have the power to do so. Kind of keep that in mind."

Commissioner Farber asked, "The Chief of Staff, is that the Albuquerque model. It sort of rang a bell to me and why would that be preferable from your perspective as opposed to the City Manager."

Mayor Coss said, "Because that is where it is clear that the Mayor is responsible for the operation of city government. We missed our budget by \$7 million. [inaudible because of noise overlay]."

Commissioner Farber said, "But you appointed that guy."

Mayor Coss said, "I appointed a Manager, I didn't appoint the Finance Director."

Commissioner Farber said, "But the Manager selects the Finance Director, so indirectly you did, not you, but... that's way it all goes."

Mayor Coss said, "I see that, but I'm not allowed, under existing Charter to tell the City Manager who to hire and not hire, or who to fire or not fire."

Commissioner Gutierrez said, "You said in here, about the Police and Fire Chief, that those are under the hiring and firing of the City Manager."

Mayor Coss said, "Right."

Commissioner Gutierrez asked if that comes with a recommendation from the Mayor."

Mayor Coss said, "The City Manager usually doesn't hire or fire any top level administrator without the Mayor's blessing, and usually talks to Councilors. I hate to read in the paper that this person was not hired, and this person had problems."

Commissioner Gutierrez asked, "Well, are you putting them in same level as the other 3, or is it working the way it is, with the City manager, the Clerk and the Attorney, since they're the top level."

Mayor Coss said, "No. I think we might ought to look at the Finance Officer level. You might just change City Manager to Chief of staff, or something like that. Or you could just say the City Manager is appointed by the Mayor, approved by the Council, and could only be removed by the Mayor. Or maybe even a compromise, that the Manager can only be removed by the Mayor with the approval of the Council, but can't be removed by the Council, without the approval of the Mayor."

Commissioner Long said, "Or can't be removed without the recommendation of the Mayor."

Mayor Coss said, "Somewhere in there. Something to just... these are hard jobs. You can always have a revolving door at that top job, but I think it revolves a little too much in various ways to too much micromanaging and just patronage type of politics sometimes."

Chair Serna asked the Mayor if we can allow the public to ask him questions, and the Mayor said, "Certainly."

No member of the public asked a question of the Mayor.

Chair Serna told the Mayor he has been extremely, extremely helpful to the Commission.

Mayor Coss thanked the Commissioners for their work

D) INDEPENDENT COMMISSION FOR REDISTRICTING

A copy of a Memorandum dated April 23, 2013, to the Santa Fe Charter Commission from the League of Women Voters, Santa Fe County, regarding Citizen Redistricting, is incorporated herewith to these minutes as Exhibit "6."

A copy of a *Proposed Amendment to Section 6.03 of the Santa Fe Charter to Establish an Independent Redistricting Commission*, submitted by Common Cause, is incorporated herewith to these minutes as Exhibit "7."

Chair Serna said we received excellent proposals from the League of Women Voters and from Common Cause. He said the Common Cause proposal "is exactly what were looking at when we decided the Redistricting cases statewide, so it seemed to have covered all those grounds."

Chair Serna asked Mr. Harrington to present the Common Cause proposal to the Commission.

Mr. Harrington said, "I realize the Chair probably has more expertise in this issue than many of you. I think we, and the representatives of the League, discussed this and we've exchanged drafts and come up with two different proposals. I think it really would be important to get an Independent commission involved in a major way. The redistricting process really degenerated to a rather seamy level since the last go-around. There was one of the several alternative proposals that stood out head and shoulders from all the others and the Council rejected it."

[The majority of Mr. Harrington's presentation is for the most part inaudible because of the noise overlay from the air conditioner and Mr. Harrington speaking so softly.]

Mr. Harrington said, "And so I think it would be advisable for this process to be given over to a commission. And I think this Commission is probably the only way that that's going to get done. I'm old enough to remember the days when there was serious mal-apportion all over the country in Congress and State Legislators. And there were proposals constantly to fix it, but it was very obvious the Legislatures were not going to do it themselves. [inaudible]"

Mr. Harrington said, "There are 3 differences between the Common Cause Proposal and the League's, which I will just briefly mention. [His explanation of the first difference was inaudible]. The second difference is that Common Cause's proposal would give the final word to the commission on drawing District boundaries. And the League's proposal, as I read it, would allow the Council to create a commission that was purely advisory, leaving the Council to have the final say. I'm sure that is the kind of commission the Council would appoint, if you left it to the Council, that is an advisory commission. The trouble with that is it runs the risk of having the whole exercise be a waste of time and money. And that's

happening in some jurisdictions where they have an advisory commission. And then the Legislature says, well that's nice, we'll take your views into account and then they start and do the whole process again, and you haven't accomplished much."

Mr. Harrington continued, "If you were to have an advisory commission, it would be necessary to have the stages inspected bipartisan. I don't know how you would guarantee that in the Charter. So our preference is for the final word, the kind of thing that is done in California and Arizona."

Mr. Harrington continued, "The third one, and this one I wanted to discuss more with the League, but our proposal would have redistricting to be done only after every decennial census. And the League says at least every 10 years, so it leaves it to the Council to correct redistricting in between censuses. And as anybody who has followed the experience in Texas knows, that can really be abused. It's a full time job in the Legislature there. They're constantly redistricting, the State Legislature, every time one faction gets the edge over another. So 18 of the states have set up some kind of reform process, some kind of provision that prohibited doing it any more often than every 10 years. And I'm sure that's permissible under the Constitution [inaudible]."

Mr. Harrington continued, "I know Santa Fe has a somewhat unusual situation that the League is concerned about, which is there is about to be a significant annexation, and that would make some of the Districts very unequal in population. As long as it's not a permanent situation, the kind we had up until the 1960's. I don't think that's a particularly bad result to have the Districts [inaudible]. But other than that, one of the main points is we need something like this, and this Commission is the place to make it happen, and I think we and the League are in agreement."

Chair Serna said, "Would you repeat point one, I didn't quite get to it."

Mr. Harrington said the first point was to point out that the Common Cause proposal was a little shorter and simpler, which he said, "you can see that for yourself."

Chair Serna said it is on his computer. He said, "I just want to mention that we used to say that brevity is the nectar of the gods."

Jarrett Applewhite said, "I really appreciate the opportunity to testify on what I think is a pivotal governance issue for our public, which is extracting redistricting and drawing maps away from politicians. And I think it's a much bigger issue in partisan offices, but Santa Fe has such a long history of being progressive and in addressing forward-thinking governance issues, I was thrilled to hear that you were taking on this topic. And let me just indulge you for a minute by giving you a personal experience. Within a couple of months after my term expired on the School Board, the Board of Education met and drew up the map, and redrew in a way such that I would have to move if I had wanted to run again for my old seat. And that could be just a coincidence or it could be the fact that I spent 4 years trying to create as much heartburn as I could, trying to get daylight into the finances of the School District. I wasn't a particularly popular figure on the part of people who worked there."

Mr. Applewhite continued, "If I had wanted to run for School Board again, 90% of the people who were my constituents, and who I had been meeting with for 4 years, so they could give me campaign contributions, I would be running from a new District, where I would have to meet my constituents again. And it wouldn't have been the end of the world, but the real question is, was that a political decision to disenfranchise me from the people I had been representing. And this happens across America all the time. There are states in this union that are a majority of one party, and have legislatures controlled by another party, strictly through effective control of the mapping process. And the people living in Eldorado are very lucky to have one of their own representing them. But the way that District was redrawn and Brian is no longer their State Senator. No, I'm confusing the Senate and the House. Rhonda King represented that area and she was not part of the Eldorado community, and her community of interest was more Edgewood and Estancia and now the opposite has happened. A resident of Eldorado represents that District in the house, but that District is like a chile. It runs all the way down to Torrance County and includes Mountainair. And I have no quarrel with Representative Easley, and as far as I can tell, he's doing a splendid job. But I'm not sure, if I was a resident of Mountainair, I would feel that a guy that lives 15 minutes from Santa Fe could represent me well."

Mr. Applewhite continued, "The way maps should be drawn in the real world is to reflect changing demographics – sizes of cities move, populations move, demographics change. And I've read the League's position and it's excellent in my opinion, but the people that decide where the lines should be, should be thinking about where is the center of population, what is the right way to allocate, in the case of Santa Fe, the map into four Districts so that everybody has a fair, equal change, not where does Jarrett live. Karen was my next door neighbor almost, but I never wanted to run against her. And it would have flattered me if she had thought that I could challenge her. But if I decided to run against her, and she were in charge of drawing the map, and she had the power to move me out of her district, that's exactly what you don't want. You don't want Karen Heldmeyer deciding I can't represent the community that I live in. And that's why an independent commission would be... the real reason I'm here is because I think if Santa Fe adopts an independent commission it would be setting an example for the rest of the State. And I intend to work as hard as I can to see that in 2015, a bill is introduced in the Legislature that, if passed, would require a change in the State Constitution to allow redistricting to be conducted by an independent commission at that level. And frankly, if the City of Santa Fe had already leaned toward independent redistricting, it would make that job easier."

Chair Serna said, "It would make it easier for the Supreme Court too, because I was there for 16 years, and for both censuses, we decided [the redistricting boundaries]."

Mr. Applewhite thanked the Commission for its time.

Chair Serna said, "One thing I noted in my notes, was that the Mayor was pro independent redistricting, so that's good to know. Yes."

Ms. Larson said, "In the interest of time, let me just say you have our handout [Exhibit "6"], and I think we did a really good job of summarizing the difference between the Common Cause proposal and the League proposal, and the League had no trouble supporting a redistricting commission that had the last say. Our language is exactly silent on that point. And I think he also summarized well our concerns about

having the language in, about redistricting at least every 10 years. It's up to you to decide whether there's too much mischief to be done that way, or if we want to allow for things like annexations and other kinds of interim situations that may arise."

Commissioner Farber said, "This is directed to the representatives of the League of Women Voters. I'm still not real clear about the objection or concern about the language in the Charter the way it is, where it says the City Manager shall have the right to fire. When right after that, under 9.02, it says the City has to have a merit personnel system, which would cover everybody, except those who were exempt. Am I missing something, or did you want specific language in that Section 8.03, assuming it stays, that somehow modifies the power of the manager to hire and fire all employees, because it's subject to a merit based system by the Charter as it is."

Commissioner Long said, "I thought one of the issues was that the Charter said the City Manager can fire the City Attorney and the City Clerk, and the City Manager can't do that. Those are Mayor appointed positions and could only be fired by the Mayor."

Commissioner Romero-Wirth said, "Except that 8.03 says the City Manager shall have the power to hire and fire all City employees."

Commissioner Werwath said, "We just need to change that to provide that is the case, with the exception of the City Clerk and the City Attorney, which are appointed by the Mayor."

Commissioner Romero-Wirth said, "I think we might need to differentiate... I mean, I assume that there are exempt positions and classified positions, so use the State's terminology, which I don't know if that carries down here. And classified people can be fired, subject to the rules of the classified services. So I think there's just some ambiguities here."

Former Councilor Heldmeyer said, "And there are limitations on exempt positions as well, as those who have been through lawsuits on that issue know."

Commissioner Romero-Wirth said, "So I think there's quite a bit that needs to be fixed here."

Chair Serna said, "In the League of Women Voters proposal, it says it must meet all federal criteria, including population and the provisions of the Federal Voting Rights Act. So that would address B, and Common Cause's Districting Plan, plus avoid dilution of minority voting strength. That's what you're including."

Commissioner Romero-Wirth said, "That's current law actually and in the Charter, which is a legal standard and a precedent for them, and they are stated here, which I think is sort of interesting, because it's not really necessary, because is the way they have to do this stuff anyway."

E) OTHER GOVERNANCE ISSUES TO BE DISCUSSED AND/OR RAISED

None.

C. MAY 9, 2013 – CITY COUNCIL CHAMBERS

POLICY ISSUES

- A) LIMIT CONTRIBUTIONS TO CANDIDATES THAT DO NOT ACCEPT PUBLIC FINANCING.**
- B) SALARIES TO BE SET BY AN INDEPENDENT COMMISSION.**
- C) FULL AND COMPLETE DISCLOSURE OF USES FOR TAX BONDS PRIOR TO ELECTION.**
- D) BROADEN REFERENDUM AND INITIATIVE RIGHTS OF VOTERS.**
- D) SIGNATURES TO BE REQUIRED FOR PETITIONS/RECALLS.**
- F) PROPOSAL FROM CITY OF SANTA FE IMMIGRATION COMMITTEE.**

6. DISCUSSION/POSSIBLE ACTION AGENDA ITEMS FOR FUTURE MEETINGS.

Commissioner Hiatt said, “I would like to suggest that we soon establish a cutoff date for new subjects. We could put that on the next meeting agenda. I don’t think it’s necessary to do it right now, but I am just getting antsy about this.”

It was the consensus among the Commission to defer establishing cutoff dates for new proposals to the next meeting.

7. COMMUNICATION FROM CHARTER COMMISSION MEMBERS

A copy of an article from www.NYTimes.com, *Weekend Gun Report: April 12-14, 2013*, entered for the record by Commissioner Farber, is incorporated herewith to these minutes as Exhibit “8.”

Commissioner Farber said, “I wanted to hand out something, following up on my conversation. It is a *New York Times* column by Gabrielle Giffords who was the Congresswoman who was shot.”

[STENOGRAPHER’S NOTE: The article was distributed to the Commissioners but a copy was not provided for the record.]

Commissioner Farber said, “I am hoping, however depressing, people are following Joe Nocera and his columns in the New York Times where he compiles the Weekend Gun Violence Reports [Exhibit “8”]. I’m handing these down. On line, you can get access to the actual links, showing the significance of the issue in the country.”

Ms. Barkley said, "I just wanted to say, in terms of scheduling, that our office has received a request from the Neighborhood Network to be on the agenda with a discussion item at a future meeting."

Commissioner Romero-Wirth asked what topic they want to discuss.

Ms. Barkley said it has to do with the Neighborhood Bill of Rights, noting they have proposed language for consideration.

Chair Serna suggested it be added to the agenda of May 22, 2013.

Commissioner Farber said to his knowledge, there isn't a date for a meeting after May 9, 2013.

Commissioner Werwath said there is, noting the meetings are scheduled through the end of June, "based on the process that I created."

Ms. Barkley said the schedule is on the website.

[Too many people talking here at the same time to transcribe.]

Commissioner Long asked if all the scheduled meetings are at 5:00 p.m., and Chair Serna said this is correct.

Commissioner Werwath said, "I think one of the things to remember, is that all of the things that have been proposed are going to be considered one more time in a final deliberation. So all matters that have been brought up, that haven't been removed by the Commission to now, will be heard at that time. So it may not be necessary to schedule a specific discussion item prior to that final deliberation."

Chair Serna said he has not sensed, or seen or heard "or even smelled any objection."

Ms. Barkley said, "I wanted to bring to everyone's attention that, I believe it was at the meeting at the Southside Library, the Commission voted not to pursue the item any more that had to do with term limits for Mayor and City Councilors. And the reasoning was that was in the group of items that are unconstitutional. So Commissioner Romero-Wirth brought to my attention that item was specifically called, in the enabling Resolution the Council passed, to ask this Commission to consider. It was one of two things that was called out by the Council to have this body consider."

Commissioner Romero-Wirth said, "Yes, so we'll just put in our final report to the Council why we didn't move forward with that was because of the legal piece."

Ms. Barkley said, "In the enabling Resolution they acknowledged that it was illegal at this point, but they requested that it be considered on its merits."

Commissioner Romero Wirth said, "We did. And we can't do it."

Commissioner Werwath said, "Here's what I think. If you read the enabling Resolution, the language very specifically says, 'Even though it's not currently allowed by State law, this should be considered because of the length of time between Charter revision and the potential for State law to be reversed, prior to the next Charter Commission hearing.' So I, me personally, when I voted for that, I voted on the merit of it being preempted by State Law, rather than considering the merits of it at some point in the future."

Commissioner Romero-Wirth said, "But that can also still be our position, that because it's excluded by State law, we're not going to spend time on it. I think we can still use that as our basis."

Commissioner Werwath said, "Because of what my own feelings were, I would not have voted that way, had I had that language, and the fact that they wanted it specifically considered in the Resolution."

Commissioner Farber said, "Well, Daniel, if you wanted to, I think, and if you wanted to have another vote, since, if I understand correctly, you are in the majority, you could move to reconsider that issue when we vote on things. And make your argument, and then there would be a vote under Robert's Rules of Order."

Commissioner Werwath said, "I think Jamison was just bringing that up to call attention to that fact for the rest of the Commission, because I was kind of surprised by it when I came across it."

Commissioner Long said she also had forgotten about that, too.

Commissioner Farber said, "But that was just in the Whereas clauses, it wasn't in the Be It Therefore Resolved clause. It doesn't matter to me."

Commissioner Long said it doesn't matter to her either.

8. PUBLIC COMMENT

There was no further public comment.

9. ADJOURNMENT

MOTION: Commissioner Werwath moved, seconded by Commissioner Hiatt, to adjourn the meeting.

VOTE: The motion was approved unanimously on a voice vote, and the meeting was adjourned at approximately 7:30 p.m.

The Honorable Patricio Serna, Chair

Melessia Helberg, Stenographer